Claims 1-4, 8, 12, 13, 17, 24-26, 27, 31 and 32 are rejected under 35 U.S.C. § 102(e) as being anticipated by newly cited Aksentijevic et al. (U.S. Patent No. 6,738,624; hereinafter "Aksentijevic"). Claims 5-7, 9, 15, 16, 19, 29 and 30 are rejected under 35 U.S.C. § 103(a) as unpatentable over Aksentijevic in view of Well Known Prior Art (Official Notice). Applicant respectfully traverses the prior art rejections.

Applicant respectfully submits that the claimed invention would not have been anticipated by or rendered obvious in view of the cited reference because Aksentijevic, alone or modified based on Official Notice, does not teach or suggest the all of the features of independent claim 1 including:

(1) "transmitting, from the second entity to the first entity, a capacity credit, and a consumption law for updating the capacity credit as a function of at least a spreading factor; and updating at the first entity the capacity credit on the basis of the consumption law", and/or

(2) "in the case of a variable spreading factor and/or a variable number of spreading codes, said updating is effected on the basis of a reference spreading factor and/or a reference number of spreading codes."[1]

Aksentijevic discloses, generally, a method of using the available bit rate associated with a Node B as a measure of the Node's processing capacity, and a method for reporting the processing capacity from the Node B to a Radio Network Controller (RNC). In particular, Aksentijevic discloses replacing the use of the spreading factor as an indicator of Node B processing capacity, by the available bit rate (ABR).

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[1] Independent claims 12, 13 and 24 recite substantially similar features.

The Examiner cites column 3, lines 46-54 of Aksentijevic for allegedly disclosing the claimed feature of "transmitting from the second entity to the first entity, a capacity credit, and a consumption law." However, the cited portion of Aksentijevic only discloses sending a processing capacity report signal from Node B to an RNC in response to a processing capacity inquiry signal. Further, column 5, lines 35-42, which the Examiner cites for allegedly for disclosing a consumption law, merely discloses that an available bit rate (ABR) is a measure or amount of a Node B processing capacity.

With regard to independent claims 1, 12, 13, and 24, the Examiner cites column 6, lines 33-57 of Aksentijevic for allegedly disclosing "updating the capacity credit as a function of at least a spreading factor, and updating at the first entity the capacity credit on the basis of the consumption law". However, the cited section simply discloses that an ABR "enables the RNC to effectively control call traffic and manage resources at Node B" by inputting the ABR into a capacity model and obtaining a "characterization of Node B's processing capacity." Aksentijevic further discloses that the ABR "provides for transport of digital traffic at the bit rate available at a given time, on a dynamic basis," and that the capacity report signal may also include "other related data such as spreading factor." Nowhere does Aksentijevic disclose using the spreading factor or the consumption law to update a capacity credit, i.e., Aksentijevic simply discloses using the ABR and that the spreading factor can be included in the processing capacity report signal.

Aksentijevic proposes to replace the use of the spreading factor as an indicator of Node B processing capacity which is disclosed 3GPP TS 25.433 (see col. 3, lines 12-35), by the available

bit rate (ABR). On the other hand, the present application addresses another problem, which is that 3GPP TS 25.433 does not address or indicate how the case of variable spreading factor and/or variable number of spreading codes should be taken into account in the credit mechanism. This problem is not at all addressed by Aksentijevic.

Accordingly, Applicant respectfully submits that claims 1, 12, 13, and 24 should be allowable over Aksentijevic because the cited reference does not disclose or suggest all of the features of the claims.

With regard to independent claims 31 and 32, the Examiner cites column 3, lines 46-54 of Aksentijevic for allegedly disclosing "transmitting from the second entity to the first entity, a capacity credit, and a consumption law." However, the cited section of Aksentijevic only discloses a processing capacity report signal which is sent from a Node B to an RNC in response to a processing capacity inquiry signal. Further, column 5, lines 35-42 of Aksentijevic, which the Examiner cites for allegedly disclosing a consumption law, merely discloses that the ABR is a measure of a Node B's processing capacity.

Further, the Examiner cites column 6, lines 33-57 of Aksentijevic for allegedly disclosing "means, in the case of a variable spreading factor, and for PCPCH, updating the capacity credit on the basis of a reference spreading factor signaled to the radio network controller in a Radio Link Setup Request Message and calculated from a TFCS." Applicant disagrees since the cited portion of Aksentijevic only discloses sending a processing capacity report signal from Node B to an RNC in response to a processing capacity inquiry signal. Nowhere does the cited reference teach or suggest "a reference spreading factor signaled to said radio network controller in an

Information Element "Min UL Channelisation Code Length" of a message "Radio Link Setup

Request Message"" as recited in claim 31, or "a reference spreading factor calculated from a

Transport Format Combination Set (TFCS)" as recited in claim 32.

Accordingly, Applicant respectfully submits that claims 31 AND 32 should be allowable

over Aksentijevic because the cited reference does not disclose or suggest all of the features of

the claims.

With regard to dependent claims 2, 3 and 4, the Examiner cites column 4, lines 12-18 of

Aksentijevic for allegedly disclosing both, a reference spreading factor corresponding to a

minimum spreading factor, and a reference number of spreading codes corresponding to a

maximum number of spreading codes. However, the cited portion merely discloses that when

using frequency division duplex, ABR is especially superior to the spreading factor for purposes

of "communicating processing capacity" at the low end of the spreading factor values. Nowhere

does the cited reference disclose either a spreading factor reference which corresponds to a

minimum spreading factor, or a reference number of spreading codes corresponding to maximum

number of spreading codes. Accordingly, Aksentijevic does not disclose the additional features

of claims 2, 3, and 4.

For the reasons discussed above, Applicant respectfully that claims 1-32 should be

allowable over Aksentijevic.

Reconsideration and allowance of this application are now believed to be in order, and

such actions are hereby solicited. If any points remain in issue which the Examiner feels may be

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.111
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best resolved through a personal or telephone interview, the Examiner is kindly requested to

contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue

Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any

overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Christopher R. Lipp
Registration No. 41,157

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

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